

APPEAL NO. 041820
FILED AUGUST 26, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 25, 2004. The hearing officer resolved the disputed issue by determining that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fifth quarter. The claimant appeals this determination. The respondent (carrier) urges affirmance of the hearing officer's decision.

DECISION

Affirmed as reformed.

Sections 408.142 and 408.143 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) provide that an employee continues to be entitled to SIBs after the first compensable quarter if the employee: (1) has not returned to work or has earned less than 80% of the employee's average weekly wage as a direct result of the impairment; and (2) has in good faith sought employment commensurate with her ability to work. Whether the claimant made a good faith job search and whether the claimant's unemployment was a direct result of her impairment were factual questions for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We note that the claimant correctly points out that Finding of Fact No. 4b contains a typographical error. Finding of Fact No. 4b is reformed to reflect that the claimant worked eighteen days from December 10, 2003, through December 28, 2003.

The hearing officer's decision and order are affirmed as reformed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION for United Pacific Insurance Company, an impaired carrier** and the name and address of its registered agent for service of process is

**TIMOTHY J. McGUIRE
633 NORTH STATE HIGHWAY 61, SUITE 200
IRVING, TEXAS 75038.**

Chris Cowan
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret Turner
Appeals Judge